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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24088)
of Ivan H. and Adele J. Potts to)
Appropriate from an Unnamed Stream,) Decision 1451
Grizzly Creek and an Unnamed Spring)
in El Dorado County.)

DECISION APPROVING APPLICATION IN PART

BY THE BOARD:

Ivan H. and Adele J. Potts having filed Application 24088 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

1. Application 24088 is for a permit to appropriate .045 cubic foot per second (cfs) by direct diversion from an unnamed spring, 20 acre-feet per annum (afa) by storage from Grizzly Creek, and 8 afa by storage from an unnamed stream, to be diverted and collected from October 1 of each year to June 30 of the succeeding year, for domestic, stockwatering and recreational purposes in El Dorado County; total annual appropriation will not exceed 31 acre-feet (af). The points of diversion are to be located within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 15 T9N, R13E, MDB&M, in El Dorado County

Applicants' Project

2. The applicants' project is located approximately 9 miles south of the community of Pollock Pines and approximately 1,000 feet southeast of Grizzly Flat. It is at an elevation of approximately 3,800 feet. The project, which is partially complete, is being constructed in cooperation with the U. S. Soil Conservation Service. The principal features of the project are two reservoirs, a spring box, and a steel tank. Reservoir No. 1 which has a capacity of 8 af is now in use. It is on an unnamed intermittent stream tributary to Grizzly Creek which flows into Steely Fork of the Cosumnes River. Reservoir No. 2 is to be constructed on Grizzly Creek and will have a capacity of 20 af.

3. Water will be collected to storage in the two reservoirs during the season of surplus surface flow. Water will also be pumped from a seepage area (spring) below the lower reservoir into the upper reservoir. The water will be used for stock, for recreation, to offset evaporation and seepage from the reservoirs and for domestic purposes, including possible lawn watering. The applicant also has water available for domestic use from a spring not covered by the application.

Protests

4. Protests were filed by Percy F. Westerberg, Rooney Brothers, Inc., Blodgett and Ostman, and Omochumne-Hartnell Water

District. The protestants divert from the Cosumnes River at points approximately 60 miles downstream from the applicants' project under claim of riparian and pre-1914 rights. In dry years the Omochumne-Hartnell Water District purchases supplemental water from the El Dorado Irrigation District and uses the channel of the Cosumnes River to transport the water to its members.

5. The protestants have no objection to the approval of Application 24088 if the months of May and June are eliminated from the diversion season. None of the protestants appeared at the field investigation in support of their protests.

Availability of Unappropriated Water

6. Board's Decision 1369 adopted February 18, 1971 and prior decisions found no unappropriated water in the Cosumnes River watershed during the months of July through October. As there has been no showing of any changed circumstances that would justify a different conclusion at the present time, the month of October should not be included in the diversion season in any permit issued pursuant to Application 24088.

7. The flows from the watersheds above the reservoirs are minimal during June of most years. The sources covered by Application 24088 are in the Sierra foothills below 5,000 feet elevation so there is no runoff from snow melt. Records of Omochumne-Hartnell Water District show downstream users have purchased water from El Dorado Irrigation District by the middle of June or earlier (District's letter to Board dated March 3, 1973). Rainfall records in the same general area indicate little or no precipitation

during the month of June (Board's Decision 1256) and that month should not be included in the diversion season for storage in any permit issued pursuant to Application 24088. Direct diversion from the spring should be allowed for the entire season requested except for the month of October.

8. The records of a gaging station at Michigan Bar located immediately upstream from the protestants show that the flows of the Cosumnes River during the months of November through May are far in excess of the historical diversions of the protestants.

9. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

10. The intended use is beneficial.

11. The Board's initial study of applicant's project pursuant to the California Environmental Quality Act indicated that the project would not have a significant effect on the environment. A Negative Declaration to that effect was prepared and circulated in accordance with administrative regulations. No adverse comments having been received, the Board confirms the Negative Declaration.

From the foregoing findings, the Board concludes that Application 24088 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Application 24088 and all relevant information on file therewith, particularly the report of field investigation made October 30, 1972.

ORDER

IT IS HEREBY ORDERED that Application 24088 be approved in part and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed .045 cubic foot per second by direct diversion from November 1 of each year to June 30 of the succeeding year and 28 acre-feet per annum by storage to be collected from November 1 of each year to May 31 of the succeeding year.

The total amount of water to be taken from the sources shall not exceed 31 acre-feet per water year of October 1 to September 30.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

2. The amount authorized for appropriation may be reduced in the license if investigation warrants.

3. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

4. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1978.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1979.

7. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

8. Pursuant to Water Code Section 100 all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

9. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

11. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board.

12. Permittee shall not exercise any other existing right to the use of water named herein so long as this permit or any license issued pursuant thereto remains in effect.

13. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized uses. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

Dated: July 17, 1975

W. W. ADAMS

W. W. Adams, Chairman

ABSENT

W. Don Maughan, Vice Chairman

ROY E. DODSON

Roy E. Dodson, Member

JEAN AUER

Jean Auer, Member